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IN THE EIGHTH JUDICIAL DISTRICT COURT OF UINTAH COUNTY
STATE OF UTAH

WHITEROCKS IRRIGATION COMPANY,
a Utah corporation,

Plaintiff,

COMPLAINT

vs.

ROBERT L. MORGAN, State
Engineer of the State of Utah;
and OURAY PARK IRRIGATION
COMPANY, a Utah Corporation,

Civil No.

Judge _____

Defendants.

Plaintiff complains of defendants as follows:

JURISDICTION

1. This action is a judicial review from an Amended Order of Defendant Robert L. Morgan, as State Engineer of the State of Utah, dated October 15, 1990.

2. Jurisdiction and venue lies with this Court pursuant to Utah Code Ann. §§ 63-46b-14, 63-46b-15, and 73-3-14.

PARTIES

3. Plaintiff, Whiterocks Irrigation Company (hereinafter "Whiterocks") is a Utah nonprofit corporation organized and existing under the laws of the State of Utah, whose mailing address is Whiterocks Irrigation Company, P.O. Box 146, LaPoint, Utah 84039.

4. Defendant, Robert L. Morgan, presently is and at all times material to this action has been the duly appointed and qualified State Engineer of the State of Utah (hereinafter "State Engineer"), whose mailing address is 1636 West North Temple, Salt Lake City, Utah 84116.

5. Defendant, Ouray Park Irrigation Company (hereinafter "Ouray Park") is a Utah nonprofit corporation organized and existing under the laws of the State of Utah.

GENERAL ALLEGATIONS

6. By letter dated March 30, 1990, an informal adjudicative proceeding was commenced by the State Engineer for the purpose of collecting information and issuing a final distribution order to resolve issues regarding the relative priorities of certain storage water rights on the Uintah and Whiterocks Rivers.

7. The following entities were parties to the adjudicative proceeding: Whiterocks, Ouray Park, Dry Gulch Irrigation

Company, Moon Lake Water Users Association, and Associated Water Users Uintah/Lake Fork Rivers.

8. On August 30, 1990, the State Engineer issued an Order entitled "Uintah River Storage Schedule-Order" (a copy of which is attached hereto as Exhibit "A").

9. Whiterocks and Ouray Park filed separate requests for reconsideration of the August 30, 1990 Order, and pursuant thereto a hearing was held on October 10, 1990, and on October 15, 1990 the State Engineer issued an Amended Order entitled "Uinta River Storage River Schedule-Amended Order" (a copy of which is attached hereto as Exhibit "B").

10. The State Engineer committed error in his October 15, 1990 Amended Order whereby he purported to establish a priority date of February 16, 1933 for Change Application No. 43-3197 (a7300) owned by Ouray Park, and a priority date of November 7, 1908 for Water Right No. 43-503 owned by Whiterocks.

11. The State Engineer was without authority to establish a priority for Change Application No. 43-3197 (a7300) of February 16, 1933 since the purpose of the change is to increase Ouray Park's ability to store water during the non-irrigation season by adding Brough's Reservoir as a place of storage, and accordingly the approval of such a change with a priority of February 16, 1933 constitutes an enlargement of the Water Right covered thereby which is prohibited by law.

dispute because still within a month of application and before election filed.

*1. 1973
2. 1973
3. 1973*

12. The correct priority for diversions and storage of water during the non-irrigation season under Change Application No. 43-3197 (a7300) owned by Ouray Park is February 6, 1973, being the date of filing of said Change Application in the office of the State Engineer. *was
dated 7e 4/1 - 1/1*

13. The correct priority for diversions and storage of water during the entire year under Water Right No. 43-503 owned by Whiterocks is July 11, 1908, being the date of filing of said Water Right in the office of the State Engineer.

14. Whiterocks has exhausted all administrative remedies available under law.

15. Diversions from the Whiterocks River for storage in Brough's Reservoir under Ouray Park's Change Application No. 43-3197 (a7300) with the priority set forth in the October 15, 1990, Amended Order will impair the vested rights of Whiterocks.

WHEREFORE, plaintiff prays:

1. For a Judgment of the Court adjudging that:

(a) the priority of Water Right No. 43-503 owned by Whiterocks for diversions and storage is July 11, 1908; and

(b) the priority of Change Application No. 43-3197 (a7300) for diversions and storage of water during the non-irrigation season is February 6, 1973;

2. For a Judgment of the Court ordering Robert L. Morgan as State Engineer of the State of Utah to revise his October 15, 1990 Amended Order in accordance with the preceeding paragraph

and to administer the diversions and storage of the waters accordingly.

3. For plaintiff's costs incurred herein.

4. For such further relief as the Court may deem just and equitable.

DATED this 14th day of November, 1990.

SNOW, CHRISTENSEN & MARTINEAU

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